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Remarks/Arguments

The Applicant respectfully requests that the finality of the Office Action be withdrawn, for at least the following reasons:

Section 13 of the Detailed Action states "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP §706.07(a)." The contention that the amendment of March 8, 2006 necessitated the new grounds of rejection is inaccurate.

The rejections in the present Action are substantially different from those of the previous Action: the Claim Objections in Sections 4-8 of the Detailed Action were not previously raised, and the Claim Rejections in Sections 9-12 of the Detailed Action are based primarily on prior art (Tiedemann et al.) that was not made of record in this application prior to the present Action. Accordingly, it is respectfully submitted that the Applicant is properly entitled to respond fully to the present Action on its merits, without the present Action being made final.

MPEP §706.07(a) states in pertinent part that "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)with the fee set forth in 37 CFR 1.17(p)". In the present instance, the Applicant's amendment did not necessitate any of the new grounds of rejection, based on newly cited references, and there was no such information disclosure statement. It follows that the present Action should not be final.

MPEP §706.07(a) further states that "A second or any subsequent action on the merits in any application or patent involved in re-examination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed." The Applicant's amendment of March 8, 2006 should reasonably have been expected as a clarification of distinctions of the invention from the previously applied art. Accordingly, MPEP §706.07(a) requires that the present Action,

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rejecting claims on art not previously of record, not be made final.

It is therefore respectfully submitted that the finality of the present Action is not proper, and it is requested that the finality of the Action be withdrawn.

Entry of the above amendment is respectfully requested.

By this amendment, claims 14-15 and 21-22 are amended to address the objections in Sections 5-8 of the Detailed Action. In this respect it is observed for example that the Action suggested replacing "such communications" in claim 14 by "said wireless communications"; however, the communications referred to are those using a given frequency between nodes, rather than the wireless communications generally. The wording of each of these claims has therefore been carefully revised to recite clearly what is intended, in particular replacing the terms "such detection" and "such communications" objected to.

With respect to the wording of claim 1 and Section 4 of the Detailed Action, and with respect to the messages similarly recited in claim 21, it is respectfully submitted that no amendment is necessary. Claim 1 clearly recites at lines 3-4 "a message for detection by any new node" recurrently sent by a node forming part of the wireless network, at lines 7-8 "a message ... to indicate the presence of the new node" sent by a new node, and at line 9 "a message for detection by any other node". In each case the message is clearly recited and nothing further is required in the claim.

These messages correspond to the "welcome", "new", and "I am here" messages of the described embodiment of the invention, but it is not necessary to limit the claim in this respect. In particular, it is not necessary for the claims to be limited to specific details of the described embodiments of the invention, and it is not necessary for claim 1 to specify these messages as being different from one another or otherwise. Such details are dependent upon particular embodiments of the invention, to which the claims need not be limited.

Reconsideration, and consequent withdrawal, of this aspect of the Claim Objections is therefore courteously requested.

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In Section 10 of the Detailed Action, claims 1, 8-9, 14-16 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiedemann et al. US Patent No. 5,999,816 (hereinafter "Tiedemann"), and in Section 12 of the Detailed Action all of the remaining claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann in view of Charas US Patent No. 6,381,462 (hereinafter "Charas"). These rejections are respectfully traversed for at least the following reasons.

The present invention as claimed in each of claims 1 and 21 is directed to "A method of detecting nodes for wireless communications between nodes forming a wireless network". Tiedemann is not concerned with this and does not disclose or suggest any such method. On the contrary, Tiedemann relates to a method for hard handoff of a mobile station between base stations of wireless communications systems (see e.g. column 1, lines 10-11).

The detailed Action refers specifically to column 3, line 25 to column 4, line 2 of Tiedemann. As is made clear there, Tiedemann discloses a message sent from an original base station to a mobile station (column 3, lines 29-31), signals from the original base station to neighbouring base stations (column 3, lines 34-36) for forward link traffic from these base stations, and either successful handoff of the mobile station to a destination station and communications therebetween (column 3, lines 44-45) or recovery techniques with communications between the mobile station and the original station (column 3, line 46 to column 4, line 2). This is completely different from the present invention as recited in claims 1 and 21.

More specifically, Tiedemann does not disclose any method of detecting nodes, for wireless communications between nodes forming a wireless network, as recited in claims 1 and 21. Tiedemann does disclose a mobile station detecting forward link traffic from a destination base station, but this is entirely different. Tiedemann's mobile station is not a node of a wireless system within any normal meaning of the term "node" as understood by persons of ordinary skill in the art of the invention, to whom the specification including the claims is addressed. The Background in the present specification makes it clear that a node of a wireless system refers to a wireless access and routing point, not a mobile station as in Tiedemann.

Each of claims 1 and 21 further recites "recurrently sending from a node forming a part of

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the wireless network a message for detection by any new node"; in Tiedemann there is nothing constituting a "new node" and there is no recurrent sending of any such message. The Detailed Action fails to state what is considered in Tiedemann as constituting a "new node". Again, Tiedemann is concerned with communications for handoff of a mobile station between base stations, not with communications between nodes as in the present invention as claimed.

Claim 1 further recites "in a new node, monitoring for detection of said message and for wireless network traffic, responding to detection of said message by sending a reply, responding to wireless network traffic by waiting for a pause in the wireless network traffic and sending a message during the pause to indicate the presence of the new node, and otherwise recurrently sending a message for detection by any other node". Claim 21 further recites "in a new node, monitoring for detection of said message and/or for wireless network traffic, responding to detection of said message and/or wireless network traffic, and in the absence of detection of said message and/or wireless network traffic recurrently sending a message for detection by any other node".

These steps are also not disclosed or suggested by Tiedemann. In particular, as discussed above Tiedemann does not disclose any "new node", and does not disclose or suggest any step of "recurrently sending a message for detection by any other node" from a new node as required by these recitals. Again, the Detailed Action fails to state where in Tiedemann it contends these features to be disclosed.

Claim 21 further recites a plurality of frequency channels, and compiling a list of preferred frequencies in a node. Claims 8-9, 14-15, and 22 also refer to a plurality of frequency channels and steps relating to them. Again, Tiedemann discloses no such frequency channels. The Detailed Action refers in this respect to Tiedemann: "different frequencies are provided, i.e., uplink and downlink frequencies". The use of different frequencies for uplink and downlink transmission directions between a mobile station and a base station in Tiedemann is completely different from the frequency channels and their use as recited in the claims of this application.

In summary, there is little in Tiedemann that can be correlated to the features of the present invention as claimed. There are numerous recitals in the claims of this application that

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clearly and patentably define the invention over Tiedemann. Further, with regard to the rejection under 35 U.S.C. 103(a), Charas adds nothing to the disclosure of Tiedemann of relevance in this respect. Any combination of these references is no more relevant to the present invention as claimed than Tiedemann alone. Further, it is not clear how the teachings of Tiedemann and Charas could be combined, and there is no teaching of this in the prior art.

For at least the above reasons, it is respectfully submitted that the present claims 1-22, as now amended, clearly and patentably define the invention and are properly allowable. Accordingly, it is respectfully submitted that this application is in proper condition for allowance, and action to this end is courteously requested.

Respectfully submitted,

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